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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,557	10/03/2003	Christopher J. Milley	787446-2002	2541

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NEW YORK, NY 10151

EXAMINER

FLOOD, MICHELE C

ART UNIT	PAPER NUMBER
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1655

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

20061128

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Commissioner for Patents

Acknowledgment is made of Applicant's election of Group I, Claims 1-10, in the reply filed on September 19, 2006. However, Applicant is not fully responsive to the restriction requirement because Applicant must also elect a species and expressly identify the claims readable on the elected invention, as set forth in the Office action mail dated March 21, 2006:

" This application contains claims directed to the following patentably distinct species: the numerous dispersion aids recited in Claim 1; the numerous nutritional compound esters recited in Claims 4 and 13; the numerous triglycerides recited in Claims 5 and 14; the numerous essential oils recited in Claims 6 and 15; the numerous dispersion agents recited in Claims 7 and 16. The species are independent or distinct because they encompass broadly divergent chemical compounds.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claims 2, 3 and 12 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission

may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i)."

Since the submission appears to be a bona fide attempt to provide a complete reply to the prior Office action, Applicant is given a shortened statutory period of ONE MONTH or THIRTY-DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period for reply supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a).


MICHELE FLOOD
PRIMARY EXAMINER

Michele Flood
Primary Examiner
Art Unit: 1655